

REMARKS

The Applicants thank the Examiner for the thorough consideration given the present application. Claims 73, 75-82, 84-90, 97-100, 105-113, 115 and 123-128 remain under consideration in this application. Claims 91-96, 102-104 and 116-122 have been withdrawn from consideration. The Examiner is respectfully requested to reconsider her rejections in view of the amendments and remarks as set forth below.

Rejection Under 35 USC 102

Claims 73-82, 90, 97-101, 105-108, 111, 113-115, 123 and 124 stand rejected under 35 USC 102 as being anticipated by Bussard (U.S. Patent 5,281,499). This rejection is respectfully traversed.

First, it is noted that claims 74 and 114 have been cancelled and their limitations incorporated into independent claim 73 and 105. Accordingly, the rejection as it relates to cancelled claims 74 and 114 is rendered moot.

The Examiner states that Bussard teaches an interface assembly having a metal substrate, a transparent polymer film with a holographic or diffraction grating image embossed thereon and adhered to the substrate via an adhesive silk screen printing ink. The Examiner further states that the hologram includes a reflective metalized layer, preferably aluminum.

Applicants submit that the present amended claims are not anticipated by or obvious over the Bussard reference.

Bussard shows an embossed plastic carrier 11, a metallic backing 12 and an adhesive layer 13 for mounting the product on a fabric article, such as a teeshirt. Although the Examiner has not specifically identified the elements of the claim in relation to the parts of the reference, it is assumed that the claimed non-metallic material is being considered the equivalent of the embossed plastic layer 11 and that the claimed metal substrate is being equated with the metal backing 12.

Claim 73 has now been amended to incorporate limitations from claim 74 and to also add other limitations. The metal substrate is now further defined as a part of a container and that a color layer is provided between the metal substrate and the non-metallic material. Applicants submit that the metal backing 12 of Bussard is not a container and in fact appears to not even be a substrate. Since the reference refers to layer 11 as the carrier and layer 12 as a backing, it would appear that the plastic layer is the substrate rather than layer 12. However, it is clear that the metal backing cannot be a part of a container. Accordingly, Applicants submit that claim 73 is allowable over this reference.

Furthermore, claim 73 now states that the color layer is provided between the metal substrate and the non-metallic material. It is clear that Bussard does not show adding a color layer between plastic layer 11 and metal backing 12. Thus, for these reasons, Applicants submit that claim 73 is further allowable over this reference.

Independent claim 105 has also been amended to further define over the Bussard reference. This claim provides a first layer of non-metallic material which is held by a metal substrate and also provides a metal layer to enhance the reflectivity of the article. The claim has also been amended to point out that the surface relief is formed on an article forming part of the container. Applicants submit that the Bussard reference does not anticipate this claim.

First, the claim requires both a metal substrate and a metal layer. The metal substrate is shown as layer 1 in the figures of the present application. The metal layer is shown as layer 6, especially in Figs. 4 and 5. Bussard does not show the presence of two metal elements. Accordingly, Applicants submit that claim 105 is allowable for these reasons.

Furthermore, claim 105 now also requires that the surface relief is formed on an article forming a container. As indicated above, the Bussard reference is designed for application to a fabric article, such as a teeshirt.

Accordingly, Applicants submit that claim 105 is patentable over the Bussard reference.

Claims 75-90, 97-100, 106-113, 115 and 123-128 depend from these allowable claims and as such are also considered to be allowable. In addition, each of these claims recite other features which make them additionally allowable.

Furthermore, in regard to the reference, Bussard teaches an interface assembly with a metal backing layer and a transparent polymer film having a holographic or diffraction grating image embossed thereon, which is adhered to the substrate via an adhesive silk screen printing ink which underlies the film. This also features the curling of the ink and sizing around the edges of the film to prevent the film from peeling off or becoming detached during use. The interface assembly is a modification of commercially available holographic materials to make them more suitable for use when applied to fabrics and other materials which are subjected to considerable wear and tear including washing and drying. This is intended for use as an iron-on application to fabric such as teeshirts.

It is clear that since this is being used as an iron-on application for fabrics, that the metal substrate must be very thin, such as only a few thousands of a millimeter so that it constitutes a foil-like material. This allows the assembly to

follow the movements of the fabric both during manufacture and use.

This is not the case with regard to the present invention where the metal substrate is adapted to form an integrated part of a container and therefore clearly thicker than the foil-like material. It is further noted that the metal substrate is described on page 8, line 14 as being "aluminum or tin plate." It is well known in the field that tin plate is not commercially available in thicknesses smaller than 120-150  $\mu\text{m}$ . Thus, it is clear from the present description that the metal substrate is a holding metal substrate and therefore must be formed of a stiffer material capable of holding other layers and capable of being used in a container such as for holding foodstuffs. This substrate is definitely not a foil-like material such as shown in the reference.

In the present application, also it should be noted that there is a difference between the metal substrate which is a holding substrate and the metal layer. The metal layer may be made of silver, gold and titanium oxide as noted on page 5 of the specification. It is clear that these materials will never be used to make a holding metal substrate.

It is further noted that Bussard is not related to the same field of technology as the present invention. Clearly, fabric products having a holographic appearance where the holographic

product improves resistance against delamination caused by washing is clearly in a completely different technology than a holographic relief forming part of a container.

Likewise, when the holographic image is being placed on a container, there is no need to make extra efforts for assuring against water penetration to the image, which is the main object of Bussard. Accordingly, one skilled in the art would not turn to Bussard when looking for method for replicating getting holographic images as part of a container. Applicants submit the present claims are not obvious over this reference.

Applicants also wish to point out that the corresponding European Application is now being issued with an independent claim having the same scope of protection as presently amended claim 73.

#### CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patent relied on by the Examiner. In view of this, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

In the event that any outstanding matters remain in this application, the Examiner is invited to contact Robert F. Gnuse at (703) 205-8000 in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By Joe McKinney Muncy  
Joe McKinney Muncy #32,334

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

*24* KM/RFG/njp  
0459-0386P